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QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT

Analytical compilation of comments and views on
the implementation and further enhancement of the
Declaration on the Right to Development prepared
by the Secretary-General

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Annex

Illustrative list of points to be included in a questionnaire on the realization of the Declaration on the Right to Development

INTRODUCTION

1. The Declaration on the Right to Development was proclaimed by the General Assembly at its forty-first session in resolution 41/128 of 4 December 1986. The Working Group of Governmental Experts on the Right to Development, which had been established by the Commission on Human Rights in 1981, held nine sessions in the period preceding the adoption of the Declaration to the content of which it had contributed. Subsequent to the proclamation of the Declaration, the Working Group held two sessions in January 1987 and January 1988 prior to the sessions of the Commission on Human Rights.
2. The Commission on Human Rights at its forty-fifth session in 1989 had before it the report of the Working Group of Governmental Experts on the Right to Development on its 1989 session (E/CN.4/1989/10).
3. At that session the following representatives made statements under item 8 of the agenda on the right to development: */

Governments: Afghanistan (19th), Algeria (22nd), Argentina (19th), Austria (20th), Bangladesh (21st), Belgium (21st), Bulgaria (20th), Byelorussian Soviet Socialist Republic (21st), Canada (19th), China (19th), Colombia (21st), Cuba (20th and 21st), Ecuador (19th), Ethiopia (20th), Egypt (21st), France (19th), German Democratic Republic (20th), India (20th), Iraq (20th), Ireland (22nd), Lebanon (22nd), Libyan Arab Jamahiriya (20th), Mexico (20th), Netherlands (21st), Pakistan (20th), Peru (21st), Philippines (21st), Portugal (20th), Romania (21st), Syrian Arab Republic (20th), Ukrainian Soviet Socialist Republic (19th), Union of Soviet Socialist Republics (19th), Venezuela (20th), Yugoslavia (20th).

Specialized agency: International Labour Organisation (22nd).

Non-governmental organizations: Christian Democratic International (20th), Commission of the Churches on International Affairs of the World Council of Churches (22nd), Four Directions Council (22nd), Grand Council of the Crees (of Quebec) (20th), Indian Council of South America (20th), Inter-American Press Association (20th), International Association Against Torture (22nd), International Bar Association (22nd), International Commission of Jurists (20th), International Council of Jewish Women (20th), International Federation of Human Rights (22nd), International Indian Treaty Council (22nd), International League for the Rights and Liberation of Peoples (20th), International Movement ATD Fourth World (20th), International Union of Students (22nd), Latin American Federation of Associations of Relatives of Disappeared Detainees (22nd), World Confederation of Labour (22nd), World Student Christian Federation (20th).

*/ The figures in brackets indicate the number of the meeting during which the representative spoke.

4. The Commission, in its resolution 1989/45 of 6 March 1989, took note with appreciation of the report of the Working Group of Governmental Experts on the Right to Development (E/CN.4/1989/10) and requested the Secretary-General to circulate it to all Governments, United Nations organs and specialized agencies and other governmental and non-governmental organizations, drawing their attention to the analytical compilation of replies (E/CN.4/AC.39/1989/1). The Commission also requested the Secretary-General to transmit a questionnaire to Governments, United Nations organs and specialized agencies, as well as to other governmental and non-governmental organizations, including those active in development and human rights, in order to elicit from them additional updated and more specific views on the subject of the implementation and further enhancement of the Declaration on the Right to Development.

5. In the same resolution, the Commission invited the Secretary-General to organize, in 1989, within existing resources, a global consultation on the realization of the right to development involving experts with relevant experience gained at the national level and representatives of the United Nations system, including its specialized agencies, regional intergovernmental organizations and interested non-governmental organizations, including those active in development and human rights, to focus on the fundamental problems posed by the implementation of the Declaration, the criteria which might be used to identify progress, and mechanisms for evaluating and stimulating such progress. It further requested the Secretary-General to submit the report on the global consultation to the Commission on Human Rights at its forty-sixth session.

6. The Commission also decided to consider the question of the right to development at its forty-sixth session, as a matter of high priority and continuing interest, under a separate item of the agenda, to be entitled "Question of the realization of the right to development".

7. The Economic and Social Council, by its decision 1989/141 of 24 May 1989 took note of Commission on Human Rights resolution 1989/45 of 6 March 1989 and approved the Commission's invitation to the Secretary-General to organize, in 1989, within existing resources, a global consultation on the realization of the right to development, involving experts with relevant experience gained at the national level and representatives of the United Nations system, including its specialized agencies, regional intergovernmental organizations and interested non-governmental organizations, including those active in development and human rights.

8. The present report is based on information received in reply to the questionnaire transmitted by the Secretary-General in accordance with the request of the Commission on Human Rights in its resolution 1989/45. The report is based on the following replies:

Governments: China (21 July 1989), Dominican Republic (7 September 1989), Netherlands (24 July 1989) and Qatar (14 June 1989).

United Nations organs: United Nations Centre for Human Settlements (19 June 1989), United Nations Development Programme (5 October 1989) and World Food Programme (25 September 1989).



Specialized agencies: Food and Agriculture Organization of the United Nations (19 June 1989 and 7 November 1989), International Civil Aviation Organization (22 June 1989), International Labour Office (29 September 1989), United Nations Educational, Scientific and Cultural Organization (7 September 1989) and World Intellectual Property Organization (20 September 1989).

Regional commission: Economic Commission for Latin America and the Caribbean (26 September 1989).

Intergovernmental organization: Council for Mutual Economic Assistance (19 June 1989).

Non-governmental organizations: Four Directions Council (10 October 1989), International Association of Lions Clubs (30 August 1989), International Confederation of Free Trade Unions (18 October 1989), International Juridical Organization (13 July and 13 September 1989), International Law Association (14 June 1989) International League for the Rights and Liberation of Peoples (7 November 1989), Inter-Parliamentary Union (3 October 1989), Latin American Council of Catholic Women (27 June 1989), Service, Justice and Peace in Latin America (15 August 1989), United Schools International (21 August 1989), World Education Fellowship (5 October 1989) and World Movement of Mothers (20 July 1989).

9. The following replies indicated that the relevant source had no comment to make:

Government: Netherlands.

United Nations organ: United Nations Development Programme.

Specialized agencies: International Civil Aviation Organization, United Nations Educational, Scientific and Cultural Organization and World Intellectual Property Organization.

Intergovernmental organization: Council for Mutual Economic Assistance.

Non-governmental organizations: International Association of Lions Clubs, International Law Association and United Schools International.

I. SIGNIFICANCE OF THE DECLARATION AND ITS RELATION TO OTHER INTERNATIONAL INSTRUMENTS

A. Governments

China

The Chinese Government considers the right to development to be one of the inalienable human rights. Only with the realization of the right to development can the other human rights be fully enjoyed by the people. Thus, to promote a clearer understanding, the interdependence between this right and the other human rights should be widely publicized. The right to development does not simply imply the development of the national economy and the

improvement of the material living standards of the people. It also involves the overall development of all aspects of the economy, society, culture, education, health and social welfare as well as the achievement of social justice.

Dominican Republic

The Government of the Dominican Republic supports the Declaration on the Right to Development and welcomes the fact that the question of the right to development continues to be examined as a matter of high priority and ongoing interest under the item "Question of the realization of the right to development". In view of the current world economic and social situation, there is a need for the Declaration on the Right to Development, which can help to stabilize peoples and hence contribute to world peace.

Qatar

The Government of the State of Qatar supports and welcomes the Declaration on the Right to Development, which was adopted by the General Assembly in 1986 as a result of concerted endeavours by the international community in previous years. The State of Qatar believes that the Declaration, in its present form, achieves one of the basic objectives, namely the establishment of a formula that combines individual and collective rights. Another advantage of the text is that it clearly establishes a link between development and human rights. Moreover, the Declaration places the individual, as a subject rather than an object, at the heart of the development process, thereby implying that individuals should participate in the development process on a voluntary basis.

B. Non-governmental organizations

Service, Justice and Peace in Latin America

The human rights situation in Latin America as regards the realization of the right to development under current circumstances is considerably different from the situation in the region when the United Nations, at the initiative of the Latin American countries themselves, began to deal with this problem.

Current living conditions and economic, social and cultural conditions have deteriorated greatly. Poverty has spread to broad sectors of the population, and there is widespread frustration at the drop in standards of living. This situation has produced acute social tensions and conflicts of various kinds that might jeopardize the States under the rule of law, which today are in the majority. These difficulties are apparent in the external sector which is the sector that imposes restrictions on the development of the countries of the region. It follows that the external debt problem is the main obstacle to the realization of the right to development.

Since the Declaration (General Assembly resolution 41/128) does not establish any strategy for attaining this objective - not being the appropriate place for so doing - the right to development remains an ideal goal towards which efforts by the international community and States in particular should be directed.

The World Education Fellowship

The right to development was felt to be an enormously complicated matter since the interpretation of development can be very wide and relate to the personal intellectual, moral and emotional development of the individual, and also to the economic and social development of a group or a whole nation. The two aspects are not insulated from one another since greater economic development can favour personal development, though not necessarily so. The right to personal development can be supported unequivocally from the standpoint of WEF since its objectives are clearly in the same direction. On the right to economic development, WEF does not necessarily have a view. The only caveat it would raise is that the right to unrestricted economical development is probably not ecologically sound.

II. FACTORS AFFECTING THE REALIZATION OF THE RIGHT TO DEVELOPMENT

A. Respect for human rights, including self-determination

1. Governments

China

The Government is responsible for the promotion of democracy and the rule of law inside the country. It must act to safeguard social stability and order and to ensure for its people the full enjoyment of generally acknowledged human rights, thereby facilitating domestic economic and social development. The Government should also take legislative, judicial, administrative and other measures to ensure that its people can all participate in the development process and have equal rights and opportunities to enjoy its fruits.

Qatar

The State of Qatar acknowledges that the continuation of colonialism, aggression and threats against national sovereignty, national unity and regional peace, as well as foreign occupation, apartheid, all forms of discrimination and domination, and the refusal to recognize the fundamental right of every nation to exercise full sovereignty over its natural resources constitute basic obstacles that impede implementation of the Declaration on the Right to Development and full realization of economic, social and cultural rights.

2. United Nations organ

World Food Programme

Since the "right to development" ultimately devolves around the enhancement of individual participation in and benefit from development in order to achieve individual well-being, human resources development needs to be seen as the core idea behind efforts to promote the right to development. Human resources refer to the entire stock of human attributes - physical, mental and social - which contribute to, and determine, the economic and social well-being of a nation. Seen in this context, the most effective way

to combat the poverty, and related hunger cycle in most of the developing world is not only to invest in the development of human resources but also to create and secure the structures and systems necessary for the productive employment of people and their sustained well-being.

The World Food Programme (WFP) for its part has placed particular emphasis on human resources development. Apart from the World Bank Group, WFP is the largest source of funding for human resources development in the United Nations system. Of the \$US 10 billion in total food aid committed by WFP since the inception of its operations in 1963, 25 per cent has been allocated in direct support of vulnerable group feeding and school feeding projects, the remainder having been devoted largely to support for agricultural and rural development (mostly through labour-intensive works) and to refugee and emergency assistance. This form of assistance is also viewed by WFP as contributing ultimately to human development especially since the family rations provided under these projects, which are always directed to the poor, alleviate the serious effect of under-nourishment on human development. Increasing efforts are being made to incorporate, in food aided projects, the training and other activities for human resources development that are financed by Governments, with assistance from other United Nations agencies, bilateral donors and non-governmental organizations. Food aid should therefore be seen as a most valuable part of the resources of the United Nations system directed at human resources development.

3. Specialized agency

Food and Agriculture Organization of the United Nations

In order to realize the right to development, it is essential that all partners concerned and particularly the beneficiaries participate in the development process. The role of NGOs, particularly those active in the field of human rights and development, should be strengthened so that they can play a greater role in the implementation of the resolution. As pointed out by the World Conference on Agrarian Reform and Rural Development (WCARRD) in 1979, special attention should be given to vulnerable groups, such as women, youth, landless labourers, shifting cultivators and nomadic populations. Another basic pre-condition for the realization of the right to development is the need to ensure equitable access to land, water and other natural resources.

4. Non-governmental organizations

International Confederation of Free Trade Unions

Development and democracy are inextricably linked. This is true in all areas of life including industrial democracy, and trade unionists need to have the necessary guarantees of their rights to represent their members' interests effectively. Experiences of economic development have shown that its benefits must be shared fairly, and that progress in the social sphere must accompany that in the economic, for otherwise the prevalence of extremes of wealth and poverty will sow the seeds for political and social unrest. More freedom for trade unions would enable a more equitable distribution of the gains of development and help to create flexible social structures that can support economic change.

International League for the Rights and Liberation of Peoples

Taking the Declaration on the Right to Development (General Assembly resolution 41/128 of 4 December 1986) as our basis, we must continue to develop our thinking on the concept of development, bearing in mind in particular:

(a) that it is a comprehensive process whose main subject is the human being and whose purpose is the full realization of human beings in all respects (physical, intellectual, moral and cultural) within the community;

(b) that this process requires the active and conscious participation of individuals and communities in decision-making at all stages, from determination of objectives and means of achieving them through their implementation and assessment of results;

(c) that the right to development encompasses the right to enjoy civil and political rights and freedoms and the absence of any type of discrimination;

(d) that there is no single or pre-established model for development, which is why genuine development requires the self-determination of peoples, recognition of their sovereignty over their natural resources and wealth and full respect for their cultural identity;

(e) that development is not a problem which concerns solely the "developing" countries, but an objective of interest to the entire international community, because of the interdependence of all nations and also the fact that the developed countries have pockets of underdevelopment in the classic sense and problems that "warrant attention because of their bearing on the development process: the relationship between economic growth and the well-being of the individual; problems of alienation, over-consumption, non-participation in decision-making; and environmentally unsound policies" (E/CN.4/1334, para. 25).

International Juridical Organization

The IJO is of the opinion that the right to development consists of each individual's right to a dignified life and freedom from poverty; the right for the populace to follow, after political independence, economic self-determination; the right for the States to be able to guarantee the fundamental needs of its own population without interference in its sovereign rights by other States. The realization of the right to development requires not only economic intervention but, above all, political and legal intervention.

An important element of the right to development is the relationship between the different legal subjects: States, peoples and individuals.

Peoples and individuals have a particular role versus the States in two specific areas: the involvement of the population in the development policy and the exploitation of imported resources to their advantage. The first aspect is a valid objective for both the developing countries and the

industrialized countries as is shown, for example, by the development aid policy of Italy (law No. 49 of 1987), where the involvement of the local population and local groups is encouraged at the different stages with positive results.

Bilateral agreements between Italy and developing countries show the same tendency of involvement and active participation by the population being regarded as one of the most important elements.

The problem of the effective use of the resources offered by international development co-operation in order to improve the standard of living is of crucial importance and is connected with the issue of linking the development policy of the industrialized countries to respect for human rights in the beneficiary States.

The problems are however diverse: the main problem being that there is not yet full agreement on the meaning of the concept "human rights" since this concept is much related to the social situation, history and legal and political traditions in the different continents and countries. There exists also the risk that the link between development co-operation - human rights is used for other than pure humanitarian aims. It should, however, be confirmed that a link of this kind with the necessary guarantees is a key element for putting into practice the right to development.

Latin American Council of Catholic Women

The Council referred to the spiritual dimension of man and indicated that respect for the human rights related to this was crucial to the achievement of development by all men.

World Movement of Mothers

The World Movement of Mothers remarked that the current tendency to proclaim new rights, while the old ones are still so flagrantly flouted in so many parts of the world and by so many member States, seems dangerous.

The temptation is great to indulge in what the French call "la fuite en avant", instead of concentrating on solving already recognized problems. WMA is in full agreement with the right to development but would not like it to serve as an excuse for ignoring or denying other basic human rights. In particular, governments should not deny the basic human rights of minorities, of women, of children, of the handicapped, of the elderly, etc. on the pretext that these rights run counter to the right to development of the majority. No healthy or durable development can be achieved under such circumstances. There are many examples of this in recent and current history.

B. International peace, security and disarmament

1. Government

China

In the domain of international politics, it is imperative that racism, colonialism and hegemonism be eradicated, that foreign invasions and occupations be stopped, that international peace and stability be maintained

and that the right to self-determination of the peoples of all countries be assured. Only then can we hope to induce an international environment favourable to the realization of the right to development.

2. Non-governmental organizations

Inter-Parliamentary Union

The 82nd Inter-Parliamentary Conference held in London (United Kingdom) from 4 to 9 September 1989 examined the problems of peaceful uses of outer space for the benefit of mankind. It called, inter alia, on States "to envisage introducing, as necessary, procedures, mechanisms and bodies for international co-operation so as to contribute to the advancement of space science and technology, to the strengthening of international security and confidence, economic and social development, and the prevention and handling of disasters and major threats".

Service, Justice and Peace in Latin America

The current international situation appears to be favourable for fostering international co-operation concerning the right to development. The achievements in the field of disarmament and the settlement of various regional armed conflicts that were negatively affecting international peace and security have eliminated a series of impediments that had previously been hampering the development of measures of co-operation.

C. New international economic order

1. Governments

China

In the domain of international economics, all countries, especially developed countries, should actively strive to redress the injustice and imbalance in the world economic structure. To begin with, they could endeavour to raise the prices of primary commodities, stabilize exchange rates, lower interest rates, improve the terms for transfer of technology, alleviate the debt burden of third world countries, overcome trade protectionism and increase their own official development assistance. They could set practical goals and adopt feasible policies and measures to improve the international economic environment. This would moderate and gradually eliminate the constraints suffered by the developing countries.

Qatar

The State of Qatar believes that there is a need to place international economic relations on a more equitable footing and therefore supports the Declaration on the Right to Development, as well as the Declaration on the Establishment of a New International Economic Order, the Charter of Economic Rights and Duties of States, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Universal Declaration of Human Rights, whose implementation would

promote international economic co-operation on a basis of equality of rights, justice, respect for sovereignty, non-interference in the internal affairs of States, non-aggression, the furtherance of mutual and equitable interests, elimination of the injustices suffered as a result of the use of force, and the promotion of social justice.

The economic factor lies in the establishment of a new international economic order based on equal sovereignty, interdependence, mutual interest and co-operation among all States. Accordingly, as a prerequisite for the realization of every people's right to development, international economic relations should be restructured on an equitable and democratic basis and a new international economic order should be established with a view to ensuring equal economic security for all States. Furthermore, exercise of the right to development implies the prevalence of peace and the establishment of a new international economic order based on respect for human rights. Consequently, States Members of the United Nations have a joint and separate obligation to create the conditions required for realization of the right to development, paying special attention to the obstacles that are impeding the endeavours of the developing countries to guarantee the enjoyment of this right.

2. Non-governmental organizations

International League for the Rights and Liberation of Peoples

Among the factors in the international sphere that prevent many countries from implementing the right to development, mention should be made of the following: (a) the external debt; (b) the imbalance in the terms of trade; (c) the crisis in the international financial system; (d) South-North capital flows; and (e) the adjustment policies advocated by the IMF and the World Bank.

To overcome these impediments, the following steps should be taken:

- (a) Calling of a moratorium on the external debt;
- (b) Full or partial cancelling, as necessary, of the developing countries' external debt. In case of partial remission, the capital repayment period should be extended and the interest rate on the remaining debt lowered;
- (c) Setting of stable, remunerative and equitable commodity prices and elimination of certain restrictions on the developed countries' imports of manufactured and semi-manufactured products from the developing countries;
- (d) Reform of the international monetary system, in particular, so as to stabilize exchange rates and discourage international financial speculation;
- (e) Application of existing economic, legal, fiscal and financial mechanisms and establishment of new methods to reverse the capital flow (and particularly the capital drain) from South to North.

It is vital to reverse this trend, for the economic development of the developing countries requires help from the developed countries in the form of capital, technology, etc. At the very least, the target of 0.7 per cent

of GNP set by the United Nations should be attained. This would be one way, easily available to the developed countries and mutually advantageous, of paying back the substantial contribution - involuntary and at the cost of enormous suffering - made by the countries of the third world, when they were colonies, to the industrial development of the then-metropolises (E/CN.4/1334, paras. 52 and 53);

"The NGOs recognize that financial institutions such as the IMF and the World Bank are not simply 'above' or 'outside of' the current crisis in development, but that they themselves are in crisis, and the NGOs have begun seriously to wonder whether these institutions' prescriptions are helpful or even feasible ... As a point of departure, the NGOs believe that if the IMF and the World Bank are really trying to aid the development of the third world, they should: become genuinely democratic and multilateral, concerned with responding to the needs of the South and not only the interests and ideological concerns of the North; find a way to make the development of the poor masses the basis of their policies and programmes ..." (from the final declaration of the NGO-United Nations seminar, held at Oxford, United Kingdom, from 19 to 22 September 1987).

International Juridical Organization

The fundamental objective of the right to development is that the industrialized countries commit not only a portion of their resources to development aid but, should also consist of the progressive reforms of the laws that regulate the international "economic system", to enable the realization of the "égalité des chances" proclaimed in the Declaration of 1986.

In this sequence of ideas, the right to development and the new international economic order go hand in hand: in fact, the objective of the new international economic order is to replace the current international economy by a more democratic and efficient one, and, the right to development is a legal instrument which can support such an evolution. Quite clearly, within this context, the position of the countries takes on a different aspect according to their economic situation, but always with a common goal.

The obligations of the industrialized countries should not be limited to an obligation to assist, they should in fact contribute to the formulation of new economic rules which would allow a more democratic economic international situation.

In addition, there exists a particular obligation for the developing countries. Firstly, they have to guarantee their own people the benefits of the results of international co-operation, and parallel to that, they have to let the people participate in the politics of development.

A concrete example of how a new approach at legal, political and economic level can be reached is the change from the "most favoured nation clause" to a system of "general trade preferences" which has been used in the Lomé agreement between the European Community and the ACP States.

Inter-Parliamentary Union

The 82nd Inter-Parliamentary Conference held in London (United Kingdom) from 4 to 9 September 1989 took up the subject entitled "Population and food equation and the search for rational and efficient solutions to the problem of the third world debt to ensure that the world can eat". Parliamentarians outlined a series of specific measures to bring about more harmonious economic development of the world.

III. IMPLEMENTATION OF THE DECLARATION AT THE NATIONAL LEVEL

A. Governments

China

The Chinese Government is consciously formulating a development strategy which takes into account the realities of China along the following lines: to allow for the parallel existence of State, collective and private ownership; to set up economic zones; to start developing the coastal areas which will have a locomotive effect, pulling the interior forward; and to decentralize decision-making so that regions can set their own development goals according to local conditions.

The people are encouraged to participate in the development process so that they can release their creative energies. Women receive pay equal to that of men. The handicapped are provided with employment, working to the extent of their abilities. In this way, all the favourable factors can come into play to animate and develop a dynamic economy, eventually raising the living standard of the people.

A policy of reform is being instituted that looks outward towards management know-how, advanced technology and investment to further China's development.

In the process of developing its economy, China is also building up its democratic and legal systems with which to protect the civil and political rights of its people.

China makes use of its taxation and welfare facilities to prevent and eliminate disparities between wealth and poverty so that every Chinese citizen can justly claim the fruits of development.

Qatar

With regard to the internal conditions required for the implementation of the right to development, the State of Qatar supports the provisions of the Declaration, which stipulate that States have a right and an obligation to formulate an appropriate national development policy aimed at achieving continual improvements in the well-being of the population as a whole and of all its individual members on a basis of active, free and purposeful participation in development and in the equitable distribution of the benefits resulting therefrom. At the same time, there should be an inseparable link between the realization of the individual's rights and his obligations towards society since, if an individual attempts to exercise his rights at the expense of society, he is actually violating those rights.

B. United Nations organ

United Nations Centre for Human Settlements

The concerns of UNCHS (Habitat) with development are primarily focused on strengthening the local and domestic capacities for production, operation, maintenance and management of human settlements activities. The global mandate of the Centre covers the multidimensional nature of problems and solutions shared by many countries as relate to the scarcity of resources, inadequate institutional capacities and the lack of a legal and financial framework for alleviating the problems. However, the thrust of UNCHS (Habitat) activities is in assisting capacity-building efforts at the national level. These activities which relate to the concept of right to development had three main features:

- (a) Provision of basic human needs, including adequate housing which was recognized by the Commission on Human Rights as a basic human right;
- (b) Adoption of strategies and policies for development of human settlements including shelter and related services for all, and their integration in the framework of national development plans; and
- (c) Integration of the poor and disadvantaged which make up a large segment of population, in the low-income countries, in the mainstream of economic activities, by stimulating activities which require unskilled labour input and other locally available factors or production.

C. Non-governmental organizations

International Confederation of Free Trade Unions

Consultation of all the socio-economic interest groups is essential if development policies are to enjoy widespread support, and trade unions must be considered partners in development. When sacrifice is required during a period of economic adjustment, a perception that all are contributing to the effort for economic recovery is imperative. Consultative procedures must be used to decide on the priorities for adjustment and on measures to reduce the impact of austerity on the poorer workers. Measures to wipe out corruption and inefficiency - at all levels - are paramount if the government is to establish popular confidence in its policies.

Inter-Parliamentary Union

In their resolve to contribute to the development of effective international economic co-operation, parliamentarians took up the problem of tourism whose tremendous economic impact on the modern world has perhaps not been sufficiently recognized to date. The Inter-Parliamentary Conference on Tourism organized by IPU and the World Tourism Organization in April 1989 in The Hague (Netherlands) recommended, among other things, that Parliaments should ensure that the tourism components be taken into account when other issues of national importance (e.g. economic, regional development and security questions) are studied so that tourism becomes part of comprehensive national policies and priorities for development. The conclusions of this Conference were also issued as an official document of the Economic and Social Council (E/1989/77).

Service, Justice and Peace in Latin America

It is also of fundamental importance to disseminate the contents of the right to development and include it in educational and research activities, to familiarize all countries with the provisions of the Declaration, as recommended by the Working Group.

World Movement of Mothers

The World Movement of Mothers suggested that national governments should be asked primarily to consider domestic problems and obstacles. It is notoriously easy for them to place the entire responsibility for certain shortcomings on international reasons, overlooking the often equally responsible domestic failings such as poor planning, graft, corruption, favouritism, negligence or persecution of minorities, et al. They should, therefore, be asked to concentrate on the domestic aspect of these problems and should, moreover, be requested to spend less time extolling their own virtues (not always visible in results) and more time in lucid analysis of their problems and the means with which to solve them. Therefore, questions 2, 3, 6 and 9 seem to be particularly valid for questionnaires addressed to governments.

IV. IMPLEMENTATION AT THE INTERNATIONAL LEVEL

A. Governments

China

The foreign policy being pursued by China is based on the principles of independence, autonomy and peace. China opposes all forms of racism, colonialism and hegemonism. It actively seeks to improve its relations with neighbouring and other countries. To maintain international peace and security, China favours the use of non-violent means to resolve conflicts between nations and to create a climate which will favour the fulfilment of the right to development. At the same time, China takes it upon itself to develop economic exchanges with other countries and, in so far as it is able, to extend assistance to the third world and contribute to the removal of unjust and unbalanced conditions in the world economy.

Dominican Republic

1. The Dominican Republic, as a signatory of the Charter of the United Nations, believes that the concept of the right to development should be refined. Problems should be identified and measures adopted to implement the right to development.
2. International co-operation is needed for the development of the underdeveloped countries especially. We believe that the developing countries should be adequately represented in the working groups so that they can have the opportunity to express their opinions and defend their positions in the search for ways to implement this right. The industrialized countries should fulfil their commitments to provide unconditional aid to the developing countries.

Qatar

1. The State of Qatar feels that there is an urgent need to implement the right to development as a human right. Qatar is convinced that the international community is fully determined to promote the human element of the right to development, since development that does not take individual well-being into account cannot be regarded as development in the true sense of the term.
2. The interdependence of the international community implies the need for concerted international endeavours to achieve the successful implementation of the right to development, and States have an international as well as national obligation to take the necessary measures in order to promote development.
3. The international development agencies and financial institutions should play a fundamental role in ensuring that their programmes and agreements cater for the needs of the developing countries.

B. Specialized agency

International Labour Organisation

During the consideration of the report of the Director-General (Part I) entitled "Recovery and Employment" at the 76th session (1989) of the International Labour Conference, emphasis was put in particular on the role that the ILO could play through its capacity and experience concerning labour market problems and its tripartite approach involving the actual participation of the social partners, as well as on the importance and necessity of strengthening international co-operation, in a situation where the problem of external debt continues to dominate the international scene and North-South relations. In the context of preparing the International Development Strategy for the next decade, the international community and the ILO in particular must contribute to the emergence of a new perception - which was already apparent - of development and world solidarity, and above all to encourage the growing movement aimed at placing man at the centre of development.

C. Non-governmental organizations

Four Directions Council

1. Implementation of the Declaration should begin within the United Nations system itself. It should involve measures for assuring that United Nations resources are (1) prioritized for projects which are designed to strengthen the enjoyment of human rights (economic and social as well as civil and political), and (2) not contributed to any project which is incompatible with the human rights of the people affected. Effective administrative and procedural measures to achieve this could include the following:

Administrative

2. All United Nations programmes that provide technical or financial assistance for development should review their operations manuals and project-appraisal guidelines, to ensure that compliance with human rights standards is a requirement for United Nations participation in development

activities. Manuals and guidelines should be revised where necessary, and public information materials should also be revised to explain clearly the way in which human rights factors will be considered as part of the project review process. Every programme should be required to report to the Commission on Human Rights within two years on the administrative measures taken.

3. Advisory services in the field of human rights are needed within the United Nations administrative system. Human rights officers should be assigned to each operational programme, on a full-time basis, co-ordinated by the Centre for Human Rights. Their functions would include technical assistance to programme staff, providing information on the human rights aspects of the programme to both NGOs and governments, and reporting any relevant information on the human rights performance of the programme to the Commission on Human Rights. Grassroots NGOs should be able to communicate concerns directly to a programme's human rights officer, without regard to consultative status.

Procedural

4. Every application for technical or financial assistance from any United Nations system programme should be required to include the following information:

(a) A statement indicating clearly how the project will affect the rights contained in the International Bill of Human Rights. The goals of the project should be related explicitly to specific human rights standards wherever possible;

(b) A statement explaining what consultations were undertaken at the grassroots level to evaluate the human rights impacts of the project, and summarizing the views expressed by grassroots NGOs. The NGOs consulted should be identified, with contact addresses;

(c) A statement explaining in detail what arrangements have been made to include the people and communities directly affected by the project in the further planning, implementation, and review of the project.

5. Programme guidelines, and letters of commitment to governments, should routinely include a statement that information submitted by the applicant with regard to human rights impact assessments and community-level participation in project implementation, are in the nature of assurances, and that continued United Nations involvement in the project will depend on the accuracy and full observance of these assurances. Projects should ordinarily be subjected to an annual, or mid-term review of compliance with these human rights assurances, at which the government will be invited to respond to any concerns communicated by NGOs to the programme's human rights officer.

International Confederation of Free Trade Unions

1. Greater solidarity at continental level is required if the voice of Africa is to make itself heard in international fora. Faster economic growth requires increased intra-African co-operation, to develop complementary industries, set up regional and continental trading arrangements and to take

trans-frontier measures to protect the environment. African trade union solidarity can provide support for trade union rights and can establish a regular input into debates at the continental level.

2. International solidarity must fight for action to promote African development. Trade unions will put pressure on their governments to adopt concrete measures to increase the resource flows going to Africa. The ILO is an important channel for raising the concerns of workers at international level and putting pressure on countries to respect trade union rights. Finally, trade union solidarity will continue to make its direct contribution to the creation of strong trade unions through providing international support to the work of trade unions in Africa.

International League for the Rights and the Liberation of Peoples

The need should be stressed for placing information campaigns on the right to development on an equal footing with information campaigns on other human rights and the possibility should be considered of including the right to development in the programme of activities of the Advisory Services Section (report of the Working Group, document E/CN.4/1989/10, paras. 29 and 30).

Inter-Parliamentary Union

1. The 80th Inter-Parliamentary Conference, held in Sofia (Bulgaria) from 19 to 24 September 1988, undertook an in-depth examination of action by Parliaments in developing international co-operation in the humanitarian field and in bringing national legislation into line with international human rights norms, principles and instruments. The Conference reaffirmed, *inter alia*, "that the right to development is an inviolable right, the enjoyment of which would further the exercise of civil, political, economic, social and cultural rights". In full accord with the United Nations Declaration on the Right to Development the Conference called on Parliaments "to undertake constructive efforts jointly at the international level to promote human rights, seek agreement and mutual understanding, improve readiness to co-operate and seek solutions to world problems such as hunger, disease, poverty, homelessness and environmental destruction, and to establish a just and democratic international economic system".

2. The 81st Inter-Parliamentary Conference held in Budapest (Hungary) from 13 to 18 March 1989 examined a whole range of issues concerning the protection of the rights of children, including those relating to development.

3. In conformity with Articles 7 and 8 of the Declaration on the Right to Development, the 81st Conference stressed that "the rights of children can best be advanced and guaranteed through concerted efforts by the whole international community to establish a just international economic order and to settle conflicts and remove hotbeds of tension by means of dialogue and negotiations, so that the precarious situation of children in developing countries may be redressed".

Service, Justice and Peace in Latin America

1. It is essential to make a greater effort towards more effective co-ordination among all United Nations development activities. This requires bringing the various programmes of the United Nations and the specialized

agencies into line with each other so that all efforts focus on consideration of the right to development as a fundamental right. The realization of this right can be evaluated by analysing compliance with economic, social and cultural rights. In this respect it is crucial for the Committee on Economic, Social and Cultural Rights to consider the right to development when it studies the reports submitted by the States parties to the International Covenant on this subject.

2. We concur with the Working Group's other recommendation to the effect that the right to development should be fully integrated with other human rights in the World Public Information Campaign for Human Rights to be held this year.

3. First world countries have been able to release enormous financial and economic resources that might be devoted to development purposes. In this way, the next few years will be a test for international co-operation and universal solidarity, for the purpose of fully realizing the terms of the Universal Declaration of Human Rights, to the effect that "the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom ...".

4. In this new social and political context, the international community must have a high-level forum in which to debate these issues. We agree on the need to hold a World Conference for the realization of the right to development with the participation of representatives of the United Nations system, its specialized agencies, the regional intergovernmental organizations and non-governmental organizations working in the field.

V. THE ROLE OF WOMEN IN THE IMPLEMENTATION OF THE RIGHT TO DEVELOPMENT

A. United Nations organ

World Food Programme

1. In discussing the role of food aid in support of the right to food and the right to development, mention must be made of the key importance of integrating the women's dimension - especially in Africa where women play a crucial role as food producers. WFP has made deliberate efforts in this field which is considered as an important sub-set of the human resources field. There is an urgent need for greater recognition and appreciation of women's productive and reproductive roles, and the implications of the continuum of those roles for the design of programmes directed at improving living standards not only for women and children but for society at large.

2. There is no dichotomy between women's productive and maternal-related tasks. Both tasks are performed within a matrix of labour time allocations, which, naturally, implies a physical limit. A major failing, both of domestic policies and programmes of international assistance, is that in addressing women's reproductive roles in the social sectors and their productive roles in the economic field separately, they tend to dichotomize in development programming what is harmonized in everyday life. The Programme has recently

prepared a policy paper for its governing body (the Committee on Food Aid Policies and Programmes) which incorporates detailed guidelines tailored specifically to the conscious incorporation of the women's dimension - in terms of gender responsiveness - into all aspects of the design, implementation and evaluation of WFP-assisted projects. This is an approach which, with due consideration for diversities in mandates and emphases, other agencies within the United Nations system as well as outside want to pursue.

B. Non-governmental organizations

Inter-Parliamentary Union

1. In line with article 8 of the Declaration which stipulates that "effective measures should be undertaken to ensure that women have an active role in the development process", the Inter-Parliamentary Union has been pursuing an extensive programme of studies of the status of women, basically in the political decision-making process. The results of the latest studies can be found in ECOSOC document E/CN.4/1989/NGO/24.
2. A world-wide Inter-Parliamentary Symposium held in Geneva from 20 to 24 November 1989 undertook a detailed examination of the whole range of issues linked to the participation of women in the political and parliamentary decision-making process.

World Movement of Mothers

1. As a Movement representing women and, in particular, mothers, WMM wishes to stress the extreme importance of education as the basis for all development. If the young are to be properly educated, special efforts must be made for their mothers' education. Literate and educated mothers provide invaluable support in raising literate and educated children. Special attention must therefore be given to the problem of the education of women.
2. To this purpose, those programmes that have proved most successful are the grassroots programmes, concrete in their implementation and in their objectives and circumscribed in scope. Far more support should be given to such programmes, which, moreover, are less costly, than to huge, ambitious programmes that are discovered years later to have been enriching experiences for their developers and organizers but not necessarily for those whom they were designed to help.

VI. EVALUATION SYSTEM ON THE IMPLEMENTATION AND FURTHER ENHANCEMENT OF THE RIGHT TO DEVELOPMENT

A. Governments

China

1. The realization of the right to development is necessarily a long and arduous task. It cannot be entrusted solely to human rights agencies but must involve the co-ordinated efforts of all States Members of the United Nations, intergovernmental organizations, special agencies and interested parties. Co-ordination and co-operation between human rights and development agencies

within the United Nations system and between the United Nations system and other special agencies, intergovernmental and non-governmental organizations must be strengthened. It is suggested that the Secretary-General of the United Nations redouble his efforts in this regard.

2. In order to propagate as widely as possible the substance and meaning of the Declaration on the Right to Development, both internationally and within each country, the United Nations could hold seminars and workshops for the general dissemination and understanding of the Declaration.

3. The human rights agencies of the United Nations should give as much emphasis to the Declaration on the Right to Development as to the other international human rights instruments. The Commission on Human Rights should request the Secretary-General of the United Nations to make a detailed study of ways and means, methods, measures, obstacles and prospects for the realization of the right to development and to submit proposals thereon for consideration by the Commission on Human Rights and the General Assembly.

4. A mechanism should be set up to evaluate the implementation of the Declaration on the Right to Development and to propose actions to be taken in the future. It is also possible to consider appointing a Special Rapporteur to study the above question.

5. The Secretary-General should provide sufficient financial support to activities on the right to development.

6. The Commission on Human Rights could authorize the United Nations Centre for Human Rights to make a compilation of international instruments and national legislation on the right to development for general distribution.

Qatar

1. The implementation of the Declaration on the Right to Development should include national and international measures, together with a definition of the fields of development that require urgent attention. The countries and groups of individuals requiring urgent development assistance should also be defined with a view to the formulation of appropriate mechanisms to provide those target groups with such assistance.

2. The State of Qatar believes that the present working methods of the Commission on Human Rights should be improved through the introduction of new methods to enable it to deal effectively with the problems relating to the implementation of the right to development in the Commission's future work.

B. United Nations organs

United Nations Centre for Human Settlements

The questionnaire on the realization of the Declaration on the Right to Development, would benefit from developing specific questions, on a sectoral basis, as relate to the degree of participation of people in the process as well as their shares of the benefits of development.

World Food Programme

Any constructive measures aimed at promoting the right to development should take into account the following essential points:

(a) The right to development should be pursued from the point of view of the human person as the central subject of development. In this connection, increasing attention should be paid to promoting human resources development as the bedrock of true self-reliance.

(b) Governments should play the lead role in these efforts with the United Nations and other donor countries and organizations playing a facilitating or catalytic role.

(c) The right to development and the right to food are inextricably linked and therefore efforts to remove obstacles in the way of the latter should be consciously integrated into broader programmes and activities to promote the former.

(d) Efforts to promote effective implementation of both the procedural and substantive aspects of the General Assembly resolution (41/128) must go beyond the dissemination of information and education and research activities. These have been recommended by the Working Group of Governmental Experts in their report of 27 January 1987 and are no doubt important. But they must be coupled with institutional structures and mechanisms for monitoring implementation on a stage-by-stage basis. As a first step, a simple and practical reporting system will need to be developed for the United Nations agencies which could be completed at the country level under the auspices of the UNDP. This would be a way of enhancing co-ordination within the United Nations system as well or with Governments.

C. Specialized agencies

Food and Agriculture Organization of the United Nations

1. FAO considers that Commission on Human Rights resolution 1989/45 on the Right to Development is a logical follow-up to resolution 41/128 entitled "Declaration on the Right to Development" adopted by the General Assembly in 1986. As this Declaration was not adopted by consensus and as little information is as yet available at national levels as to how the development process protects human rights and vice versa, we consider it essential that governments, NGOs and the secretariats of the United Nations agencies continue to emphasize the urgency for its enhancement and implementation.

2. FAO shares the view of the Working Group of Experts on the Right to Development that a periodic evaluation should take place on the progress achieved in implementing the Declaration. The discussions of such progress reports at the United Nations would contribute towards improving the international and national political situation with regard to the right to development. The 11 points suggested in the draft questionnaire on the realization of the Declaration on the Right to Development are very comprehensive. We consider them a suitable tool for the evaluation of progress achieved. We also support the proposal to hold a global consultation in 1989, if possible.

International Labour Organisation

As regards the reports that might be requested of States on the implementation of the Declaration, it would appear that the proposed questionnaire (E/CN.4/1989/10/Annex I) includes a number of points, in particular points 3, 4, 5 and 6, which would cover in substance the type of information requested of Governments under various international instruments, including the International Covenants, the ILO Conventions and Recommendations on employment and human resources development policies and the many ILO and other international instruments dealing with specific civil and political as well as economic, social and cultural rights. Appropriate co-ordination in this respect should be considered in any reporting scheme to be proposed on the implementation of the right to development.

D. Regional commission

Economic Commission for Latin America and the Caribbean

The Economic Commission for Latin America and the Caribbean is of the view that the "Illustrative List of Points" contained in Annex I of the Report of the Working Group (E/CN.4/1989/10/Annex I) still requires some careful elaboration to transform it into a questionnaire that is capable of eliciting responses from a large proportion of governments and relevant organizations. For this purpose, it is suggested that the questions be as specific as possible and require only short or multiple choice responses, since often the respondents are too short of time or are unwilling to draft lengthy explicative answers.

E. Non-governmental organization

Four Directions Council

1. Two aspects of the implementation of the Declaration will require further research: (1) measurement of the progressive achievement of economic, social and cultural rights, and (2) interdependence of human rights. These issues need to be addressed rigorously - that is to say, quantitatively, based on concrete observational research - but not necessarily "objectively", since the enjoyment of human rights is a subjective experience for the individual, rather than a physical status that can be measured mechanically. Until more reliable and widely-accepted methods of measurement have been developed, human rights impact assessment will tend to be relatively imprecise, and therefore unnecessarily political.

2. With the co-operation of the Centre for Human Rights, the Centre for Social Development, and relevant specialized agencies, the Secretary-General could initiate a series of technical seminars on measurement, and on the quantitative study of interdependence of rights. These seminars could be conducted in tandem with the work of the Special Rapporteur on Economic, Social and Cultural Rights.

Annex

ILLUSTRATIVE LIST OF POINTS TO BE INCLUDED IN A QUESTIONNAIRE ON THE
REALIZATION OF THE DECLARATION ON THE RIGHT TO DEVELOPMENT

Should the Commission on Human Rights decide to propose to the Economic and Social Council that States should periodically (triennially or quinquennially) report on the implementation of the Declaration on the Right to Development it might take into account the following types of questions:

1. Which are the essential elements of the content of the right to development in the context of the domestic socio-political and legal system (art. 1).
2. Which are the essential features and objectives of the domestic development model and which are the main difficulties (domestic and international) encountered in the process of its realization (arts. 1 and 2).
3. How is the duty of States to formulate appropriate development policies (art. 2, para. 3) being carried out and which are the main difficulties (domestic and international) in this process.
4. What are the main instruments guaranteeing equality of opportunity for all individuals in their access to basic resources and services (art. 8) and to the benefits resulting from development.
5. What steps are being taken to eliminate obstacles to the realization of the right to development, resulting from failure to observe civil and political rights as well as economic, social and cultural rights (art. 6, para 3, as well as arts. 2, 3 and 5).
6. What steps are being taken to encourage popular participation in all spheres (art. 8, para. 2).
7. What steps should be taken to give effect to the provisions of article 4 of the Declaration relating to the duty of States to formulate international development policies with a view to facilitating the full realization of the right to development.
8. What steps are being taken to contribute to the strengthening of international peace and security and particularly to the reduction of military spending (art. 7).
9. What steps are being taken domestically to secure the full exercise and progressive enhancement of the right to development (art. 10).
10. What steps should be taken at the international level to ensure the full exercise and progressive enhancement of the right to development (art. 10).
11. What steps have been taken or are proposed in respect of recommendations made in the reports of the Working Group of Experts on the Right to Development.



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IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION
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Views and information submitted by States parties, specialized
agencies and non-governmental organizations in accordance with
Commission on Human Rights resolution 1989/8

Note by the Secretary-General

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Introduction

1. In its resolution 1989/8, the Commission on Human Rights, inter alia, requested the Secretary-General (a) to invite States parties to the International Convention on the Suppression and Punishment of the Crime of Apartheid to express their views on the extent and the nature of the responsibility of transnational corporations for the continued existence of the system of apartheid in South Africa, and (b) to invite the States parties to the Convention, the specialized agencies and non-governmental organizations to provide the Commission with relevant information concerning the types of the crime of apartheid, as described in article II of the Convention, committed by transnational corporations operating in South Africa.
2. By the same resolution, the Commission requested the Group of Three established under the Convention to continue, in the light of the views expressed by States parties, the examination of the extent and the nature of the responsibility of transnational corporations for the continued existence of the system of apartheid in South Africa, including legal action that might be taken under the Convention against transnational corporation whose operations in South Africa came under the crime of apartheid, and to report to the Commission at its forty-sixth session.
3. In notes verbales dated 12 June 1989, the Secretary-General brought to the attention of States parties, the specialized agencies and non-governmental organizations the relevant provisions of Commission resolution 1989/8 and invited them to submit their views and any relevant information in time for consideration by the Group of Three and the Commission at its forty-sixth session.
4. Views and information submitted by the Governments of Czechoslovakia, the German Democratic Republic, the Ukrainian Soviet Socialist Republic and the Union of Soviet Socialist Republics are reproduced below. Any further replies which may be received by the Secretariat will be issue in addenda to this document.

CZECHOSLOVAKIA

[Original: French]
[20 November 1989]

As it has already indicated in its report on the application of the International Convention on the Suppression of the Crime of Apartheid (E/CN.4/1989/31/Add.10), Czechoslovakia considers apartheid to be an extreme form of racist terror and injustice, a manifestation of a gross and large-scale violation of human rights and fundamental freedoms. The struggle against apartheid remains the key issue not only on the African continent, but also in all other parts of the world. In its concrete activities, Czechoslovakia, on the basis of this position of principle, confirms its negative attitude towards any co-operation with the apartheid régime in South Africa, and fully supports all the actions of the international community, international organizations and bodies, particularly the United Nations, and other governmental and non-governmental institutions whose task is to combat this inhuman system. In 1962 Czechoslovakia suspended all political, diplomatic, economic, scientific, cultural and sporting links with South Africa. No transnational corporation maintaining such links operates in Czechoslovakia. Economic co-operation with South Africa is prohibited in Czechoslovakia under order No. 65/1980 of the Federal Ministry of Foreign Trade, banning economic links with South Africa, which has binding legal force.

Czechoslovakia condemns all co-operation with the apartheid régime and all support for it. This is fully in keeping with the provisions of article III of the 1973 International Convention on the Suppression and Punishment of the Crime of Apartheid, which lays down that criminal responsibility shall apply to individuals, members of organizations and institutions and representatives of the State whenever they commit acts constituting the crime of apartheid, incite them or conspire or co-operate in their commission. This responsibility clearly also applies to transnational corporations which co-operate with the apartheid régime.

In Czechoslovakia's view, a very important aspect of this issue is that the list of contracting parties to the International Convention on the Suppression and Punishment of the Crime of Apartheid contains practically none of the States in which transnational corporations are registered. First and foremost these are the developed Western countries. In Czechoslovakia's view, despite this unfavourable state of affairs, it is possible and justifiable to take as a starting-point the fact that the prohibition of apartheid applies to all States, whether or not they have ratified the Convention. The violation of international law through the commission of the crime of apartheid stems directly from the Charter of the United Nations, which lays down the principle of respect for human rights and for fundamental freedoms for all without distinction as to race, language or religion (art. 1, para. 3), and also the principle of equal rights and self-determination of peoples (art. 55). On the basis of the facts mentioned above, all the States in the world community, and especially those which attach importance to respect for human rights in the world, are expected in their practical activities to consider apartheid as a gross, large-scale and systematic violation of human rights that brings into play the criminal responsibility of those who commit it.

The Czechoslovak Government has repeatedly expressed the view that the apartheid régime cannot be eliminated unless it is subjected to genuine, effective and large-scale isolation on the basis of consistent application of the relevant United Nations resolutions. It has been manifest on many occasions that the tolerant attitude of many influential countries vis-à-vis apartheid enables South Africa to pursue its policies. The parliamentary elections held in the country on 6 September 1989 also further confirmed the policy of racial segregation and were accompanied by bloodshed. Consequently Czechoslovakia condemns all forms of direct or indirect co-operation with the apartheid régime and fully supports the General Assembly's demands in resolution 43/97, and more specifically in paragraph 7, in which the States of which the transnational corporations continue to do business with South Africa and Namibia are called upon to take appropriate steps to terminate those dealings. It also supports the Assembly's demands in resolution 43/92, in which the Security Council is invited to impose comprehensive and mandatory sanctions under Chapter VII of the Charter of the United Nations against the racist régime of South Africa, as the only effective means of attaining the common goal of the forces fighting for the protection of human rights - namely, the elimination of apartheid.

GERMAN DEMOCRATIC REPUBLIC

[Original: English]
[18 October 1989]

The German Democratic Republic reaffirms its view that the activities of transnational corporations in South Africa are a main obstacle to the abolition of apartheid. This position was also reiterated in resolutions adopted at the forty-third session of the General Assembly, among them resolutions 43/29 and 43/92.

Those transnational corporations active in South Africa contribute to the continued existence of apartheid. In the spirit of the International Convention on the Suppression and Punishment of the Crime of Apartheid, they have a share in the responsibility for the crimes of apartheid committed in South Africa.

The German Democratic Republic has repeatedly and extensively explained its fundamental position on this issue in reports submitted to the Secretary-General of the United Nations. It calls attention to its fourth report on the implementation of the International Convention on the Suppression and Punishment of the Crime of Apartheid, dated 27 September 1985, and its comments on the conclusions and recommendations of the Group of Three of 7 November 1986. The position of the German Democratic Republic contained therein remains unchanged.

UKRAINIAN SOVIET SOCIALIST REPUBLIC

[Original: Russian]
[31 August 1989]

One of the fundamental reasons for the absence of any radical steps forward in tackling the problem of apartheid lies in the continuing co-operation with South Africa on the part of economic, financial and military circles in certain States, as well as transnational corporations.

The Ukrainian SSR subscribes to the conclusions drawn by the Group of Three concerning the extent and the nature of the responsibility of transnational corporations for the continued existence of the racist system in South Africa. More detailed information on this issue may be found in particular in the Ukrainian SSR's reply to the United Nations Secretary-General's inquiry concerning the implementation of United Nations General Assembly resolution 43/92 on "Adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa."

UNION OF SOVIET SOCIALIST REPUBLICS

[Original: Russian]
[30 November 1989]

1. The Union of Soviet Socialist Republics reaffirms its position of principle concerning the responsibility borne by transnational corporations for the continued existence of the system of apartheid in South Africa, as set out in earlier replies, notably in 1988.
2. The Soviet Union resolutely condemns the co-operation between transnational corporations and the racist régime of South Africa, and endorses the conclusion of the Group of Three of the United Nations Commission on Human Rights (E/CN.4/1989/33) that such co-operation on the part of international and national monopolies strengthens the criminal apartheid régime and perpetuates the oppression of the majority African population of South Africa. Moreover, transnational corporations are ruthlessly exploiting the natural and human resources of southern Africa, and primarily those of Namibia.
3. The Soviet Union also deems without foundation the assertion that the activities of transnational corporations in South Africa and the close co-operation between certain countries and Pretoria in the political, economic and military fields help to improve the situation of the overwhelming majority of the population of the country and moderate the apartheid régime.
4. The Soviet Union continues to believe that under article III, paragraph (b), of the International Convention on the Suppression and Punishment of the Crime of Apartheid, transnational corporations bear international criminal responsibility as participants in the crime of apartheid. It also favours the adoption of sanctions under Chapter VII of the Charter of the United Nations so as to halt all political, economic and military assistance to the racist South African régime.



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Mexico 2

MEXICO

[Original: Spanish]

[14 December 1989]

"With reference to paragraph 10 of General Assembly resolution 43/97, concerning the request for information on the forms of the crime of apartheid, as described in article II of the Convention, committed by transnational corporations operating in South Africa, the position of the Government of Mexico towards the apartheid régime of the Government of South Africa is as follows:

I. General position

Mexico has in various international forums censured the Pretoria Government's policy of apartheid and it has supported the resolutions adopted both by the United Nations Security Council and by the General Assembly that condemn the policies and practices of the racist régime.

Similarly, the Government of Mexico has spoken in favour of broad mandatory sanctions against South Africa, in keeping with Chapter VII of the Charter of the United Nations, and has taken various measures to bring greater pressure to bear on the South African authorities to give up their policies of discrimination, in accordance with the provisions of the relevant General Assembly resolutions.

II. Diplomatic and consular relations

Mexico does not maintain diplomatic or consular relations with South Africa. In accordance with the terms of General Assembly resolution 2671 F (XXV), Mexico closed down its consulate in South Africa in 1974.

III. Economic relations

The Government of Mexico has endeavoured to comply strictly with the resolutions adopted by the United Nations General Assembly in connection with suspending economic, financial, trade and other relations with South Africa.

In this respect, on 30 October 1987 the Official Gazette published a decree whereby it is prohibited to import and export goods originating in or from or destined for South Africa, even if such goods pass through third countries but have their origin in or are destined for South Africa.

Mexico has also fully observed the arms embargo against South Africa imposed by the Security Council in resolution 418 (1977).

Similarly, the Government of Mexico has respected the various General Assembly resolutions concerning the oil embargo against South Africa. To this end, it has been stipulated that Petróleos Mexicanos (PEMEX) contracts for the sale and purchase of crude oil must specify that Mexican crude will be sold only to end-users, the aim being to prevent our petroleum being resold or exchanged. PEMEX must also regularly inform its clients that any operation of this type excludes South Africa and that failure to comply with this obligation would entail termination of the contract.



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PANAMA

[Original: Spanish]

[24 October 1989]

1. The Government of the Republic of Panama ratified the International Convention on the Suppression and Punishment of the Crime of Apartheid by means of Act No. 8 of 26 October 1976, which was promulgated in Gaceta Oficial No. 18,279 of 18 February 1977. The Republic of Panama has fully supported all United Nations decisions and resolutions adopted with a view to eradicating the crime of apartheid.

2. A great many races live together in the Republic of Panama and the principle of racial equality has therefore been embodied in the Constitution and the legal system. Article 19 of the Constitution states this principle expressly:

"Article 19: There shall be no personal exemptions or privileges and no discrimination based on race, birth, social class, sex, religion or political ideas."

3. Within the legal system, the Penal Code defines crimes against the international community and guarantees the indestructibility of groups of human beings by stating in article 311:

"Article 311: Anyone who participates in the total or partial destruction of a particular group of human beings, for reasons of their nationality, race or religious or political beliefs, shall be liable to imprisonment for a period of 15 to 20 years."

4. We also wish to point out that the nine reports submitted by the Government of Panama to the Committee on the Elimination of Racial Discrimination make it clear that the Republic of Panama does not maintain diplomatic or consular relations with the racist South African régime.



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**IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION
AND PUNISHMENT OF THE CRIME OF APARTHEID**

Report of the Group of Three established under the Convention

Chairman/Rapporteur: Mr. Volodymyr Vassilenko (Ukrainian SSR)

I. INTRODUCTION

1. The International Convention on the Suppression and Punishment of the Crime of Apartheid, which was adopted by the General Assembly in resolution 3068 (XXVIII) of 30 November 1973, entered into force on 18 July 1976, on the thirtieth day after the deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession. As at 31 December 1989, there were 88 States parties to the Convention (see E/CN.4/1990/32, annex).
2. Under article VII of the Convention, the States parties undertake to submit periodic reports to the Group established under article IX on the legislative, judicial, administrative or other measures that they have adopted and that give effect to the provisions of the Convention.
3. In accordance with article IX of the Convention, the Chairman of the Commission on Human Rights is authorized to appoint a group consisting of three members of the Commission, who are also representatives of States parties to the Convention, to consider reports submitted by States parties in accordance with article VII. The group may meet for a period of not more than five days, either before the opening or after the closing of the session of the Commission, to consider the reports submitted in accordance with article VII.

4. In accordance with article IX of the Convention and General Assembly resolution 31/80, the Chairman of the forty-fifth session of the Commission appointed the representatives of Nigeria, Panama and Ukrainian Soviet Socialist Republic as members of the Group.

5. By its resolution 1989/8, the Commission decided, inter alia, that the Group of three members of the Commission appointed in accordance with article IX of the Convention should meet for a period of not more than five days before the forty-sixth session of the Commission to consider the reports submitted by States parties in accordance with article VII; commended those States parties that had submitted their reports, and called upon those that had not yet done so to submit their reports as soon as possible; reiterated its recommendation that States parties should take full account of the general guidelines laid down by the Group in 1978 for the submission of reports (see E/CN.4/1286, annex); and requested the Group of Three to continue, in the light of the views expressed by States parties to the Convention, the examination of the extent and the nature of the responsibility of transnational corporations for the continued existence of the system of apartheid in South Africa, including legal action that might be taken under the Convention against transnational corporations whose operations in South Africa came under the crime of apartheid, and to report to the Commission at its forty-sixth session.

II. ORGANIZATION OF THE SESSION

A. Attendance

6. The Group held its thirteenth (1990) session at the United Nations Office at Geneva from 22 to 26 January 1990. The session was opened by the representative of the Secretary-General. The membership of the Group was as follows:

Nigeria	Mr. Scott Oguma E. Omene
Panama	Ms. Lourdes C. Vallarino
Ukrainian Soviet Socialist Republic	Mr. Volodymyr Vassilenko

B. Election of officers

7. At its meeting held on 22 January 1990, the Group elected Mr. Volodymyr Vassilenko as Chairman/Rapporteur.

C. Agenda

8. At its meeting held on 22 January 1990, the Group considered the provisional agenda (E/CN.4/AC.33/1990/L.1) submitted by the Secretary-General, and adopted the following items as the agenda of its 1990 session:

- "1. Opening of the session by the representative of the Secretary-General.
2. Election of officers.
3. Adoption of the agenda.
4. Consideration of reports submitted by States parties under article VII of the Convention.

5. Consideration of the actions of transnational corporations which operate in South Africa, in accordance with Commission resolution 1989/8.
6. Report of the Group to the Commission on Human Rights."

III. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE VII OF THE CONVENTION

9. The Group had before it the following documents: (a) a note by the Secretary-General (E/CN.4/1990/32) concerning the status of the Convention and the submission of reports by States parties under article VII of the Convention and (b) reports submitted since the forty-fifth session of the Commission on Human Rights by: Czechoslovakia (E/CN.4/1989/31/Add.10); Philippines (E/CN.4/1990/32/Add.1); India (E/CN.4/1990/32/Add.2); Pakistan (E/CN.4/1990/32/Add.3); China (E/CN.4/1990/32/Add.4); Burundi (E/CN.4/1990/32/Add.5); and Bahamas (E/CN.4/1990/32/Add.6).
10. The Group undertook the examination of each report in the presence of the representatives of the reporting States who had been invited to attend the meetings of the Group in accordance with the recommendations made by the Group at its 1979 and subsequent sessions. The report of the Bahamas was considered by the Group without the participation of a representative of the reporting State.

Czechoslovakia

11. The fourth report of Czechoslovakia (E/CN.4/1989/31/Add.10) was introduced by the representative of the State party, who stated that his Government had fully supported the "Declaration on Apartheid and its Destructive Consequences in Southern Africa" adopted by the Sixteenth Special Session of the General Assembly in December 1989; and emphasized, in particular, that that Declaration had broadened the options the international community had in its fight against apartheid. To the mandatory and comprehensive sanctions against South Africa and its total isolation, had been added the possibility for a negotiated solution amongst all the sectors of the South African population. He stated that his Government, without abandoning other measures, supported that new option. Internal political pressure within South Africa coupled with international pressure was likely to create the necessary atmosphere for the total eradication of the system of apartheid in that country.
12. Members of the Group wished to know how the relevant resolutions and decisions of the Security Council and General Assembly were implemented by Czechoslovakia. Information was also sought as to whether Czechoslovakia had any economic, cultural or other links with South Africa; and whether transnational corporations operating in South Africa were banned in Czechoslovakia.
13. Responding to the questions raised, the representative of the reporting State stated that his country had no links of any kind with South Africa, and that transnational corporations operating in South Africa were not permitted to operate in Czechoslovakia. With regard to resolutions and decisions of the United Nations organs, or other international bodies which his country had undertaken to implement, these were implemented by the relevant organs of the

State. The Group took note, with appreciation, of the report and commended the representative of the State party on his detailed presentation. The Group observed that in accordance with the obligations deriving from article IV of the Convention, all States parties had undertaken to adopt specific legislative or other measures necessary to suppress as well as to prevent the crime of apartheid and to prosecute, bring to trial and punish, in accordance with their jurisdiction, persons responsible for, or accused of such a crime.

Philippines

14. The second periodic report of the Philippines (E/CN.4/1990/32/Add.1) was introduced by the representative of the reporting State, who regretted that the policy of apartheid of the Government of South Africa which made a mockery of what was good in the civilization of man was still dominating the thinking of the Government of that country. He stressed that his Government was fully committed to the eradication of the system of apartheid. In that respect, he pointed out that the Philippines played an active role in the deliberations of the Sixteenth Special Session of the General Assembly on "Apartheid and its Destructive Consequences in Southern Africa".

15. He further stated that the position of the Philippines with regard to racial discrimination in general, had been amply illustrated in the initial report of the Philippines under the International Covenant on Civil and Political Rights (CCPR/C/50/Add.1/Rev.1) and in the eighth, ninth and tenth periodic reports of the Philippines under the International Convention on the Elimination of All Forms of Racial Discrimination (CERD/C/172/Add.17). He pointed out that paragraphs 35 to 42 of the latter concerning article 3 of that Convention, which stipulates that "States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction", gave a detailed account of the measures undertaken by his Government to combat racial discrimination, including apartheid. He stated, in that regard, that the Philippines continued to enforce the Presidential Decree No. 1350 of 17 April 1978, "declaring violations of article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination to be Unlawful and Providing Penalties therefor".

16. The Group took note, with appreciation, of the second report of the Philippines and noted that it had been prepared in accordance with its general guidelines. Members of the Group wanted to know the exact nature of the penalties provided for in the said decree; information was also requested on whether there was a specific legislation in the Philippines dealing with the crimes of apartheid, as well as on the measures taken by the Government to inform the public of the evils of apartheid.

17. Replying to those questions, the representative of the State party stated that the Presidential Decree No. 1350 of 1978 provided adequate penalties for offences against racial discrimination; and that the curricula of primary and secondary schools provided for the teaching of human rights, including teaching about the evils of racial discrimination and apartheid.

18. The Group observed that in accordance with the obligations deriving from article IV of the Convention, all States parties had undertaken to adopt specific legislative or other measures necessary to suppress as well as to prevent the crime of apartheid and to prosecute, bring to trial and punish, in accordance with their jurisdiction, persons responsible for, or accused of such a crime.

India

19. The third periodic report of India (E/CN.4/1990/32/Add.2) was introduced by the representative of the reporting State, who emphasized that the Government of his country had, for many years, championed the international fight against the policy of apartheid of the Government of South Africa. He stated that India, even before the proclamation of its independence, had issued a decree in 1946 imposing a comprehensive economic sanction against South Africa and had consistently championed opposition to the policy of apartheid in all its manifestations. He stated that India had enacted specific legislation - The Anti-Apartheid Act, 1981 - to deal with the question of the crime of apartheid, as reflected in its second report (E/CN.4/1983/24/Add.6, annex). The legislative measures that States parties were required to enact in order to give effect to the provisions of article IV of the Convention had thus been fully complied with. He further stated that all kinds of links with South Africa were banned.

20. The Group took note, with appreciation, of the second report of India and observed that the report was exemplary in its preparation and had followed the general guidelines. The representative of the reporting State was commended for the detailed and informative manner in which he had presented the report. The Group noted with appreciation that India had enacted specific legislation to deal with the crime of apartheid. In this respect, the Group requested all States parties which had not done so to follow the same example.

Pakistan

21. The initial report of Pakistan (E/CN.4/1990/32/Add.3) was introduced by the representative of the State party who emphasized that provisions of the Constitution as well as of penal laws prohibited all acts of racism and guaranteed the right to equality before the law without distinction as to race, colour, or national or ethnic origin. Furthermore, the principles of equality, tolerance and social justice were, in accordance with Islamic teachings, embodied in the Constitution. Provisions were also made for the Executive and Legislative branches to observe and respect certain fundamental rights and for a citizen to complain to the Ombudsman to rectify any injustice done to him by a civil servant. The Constitution also provided for the obligation to safeguard the rights and interests of minorities including their due representation in the federal and provincial services. Moreover, Pakistan shared the view that apartheid constituted a crime against humanity and a threat to international peace and that concrete measures for the eradication of this phenomenon had to be taken. He added that his Government had imposed a complete ban on trading with South Africa, that it did not grant any landing and passage facilities to South African aircraft, that it had closed its ports to South African vessels, and that all cultural, educational and sports exchanges had been suspended.

22. The Group took note, with appreciation, of the report and commended the representative of the State party on his presentation. Further information was sought on the implementation by Pakistan of the provision of articles II and XI of the Convention and on any measures taken by the Government to prevent legal persons from entering into relation with South African companies. With reference to articles IV and VI of the Convention, it was pointed out that the national legislation should contain appropriate measures dealing specifically with the crime of apartheid. In his reply, the representative explained that the policy of the Government was of a nature which prevented any national of Pakistan from organizing commercial links with South Africa. Furthermore, passports issued by the Government did not allow Pakistan nationals to enter South Africa. Lastly, he gave examples of cricket players who had refrained from visiting South Africa. As regards the actions mentioned in article II of the Convention, he recalled that legislation in Pakistan provided for equal protection under the law without any discrimination.

China

23. The second periodic report of China (E/CN.4/1990/32/Add.4) was introduced by the representative of the State party who emphasized constitutional and legislative provisions which provided for equality of rights of all 55 minority nationalities existing in China. Furthermore, he stated that in areas where minority nationalities lived in concentrated communities, autonomous areas and organs of self-government had been established, that the right to freedom of religious beliefs was safeguarded and that a number of preferential policy measures had been taken to help minority nationalities to speed up their economic and cultural development. He also pointed out that apartheid was considered by China as a crime against humanity and a threat to international peace, and that his Government deplored the direct assistance provided to the racist régime of South Africa by certain western countries. He added that China supported all United Nations resolutions on the question of apartheid, that his Government provided material assistance to victims of apartheid, that it had no direct or indirect link with South Africa, and that it was in favour of the imposition of more comprehensive and effective sanctions against South Africa.

24. The Group took note of the report with satisfaction and commended the representative of the State party on his presentation and for the efforts made by his Government in the struggle against apartheid. It was noted with satisfaction that the report had been prepared in strict conformity with the general guidelines. Further information was sought regarding measures taken in China to incorporate the objectives of the Convention in the educational system and to familiarize the population with the struggle against apartheid, and on the rights to freedom of religious beliefs in the Tibet Autonomous Region. With reference to articles IV and VI of the Convention, it was recalled that the national legislation should contain adequate measures dealing specifically with the crime of apartheid. In his reply, the representative of the State party pointed out that information on the struggle against apartheid was provided through the mass media, and that teaching materials relating to racial discrimination and the policy of apartheid had been prepared for primary school, middle school and college students in China. He also emphasized that a rally had been held in Beijing on 15 July 1988 to celebrate the seventieth birthday of Nelson Mandela.

Burundi

25. The second periodic report of Burundi (E/CN.4/1990/32/Add.5) was introduced by the representative of the reporting State who gave a brief overview of the political and social context within which human rights were implemented in Burundi. Despite the tragic events of August 1988, the Government was determined to ensure protection of human rights without distinction of any kind. Since these events, the Third Republic had broadened the Government and had established a commission to study the question of national unity. He further stated that refugees who had fled the violence had returned to the country, that national unity and the ethnic question were the subject of a debate at all levels and sectors of the society, and that a Charter of National Unity was being prepared. He added that in Burundi apartheid was considered a crime against humanity and a threat to international peace, that his Government supported the idea of the immediate release of all the political prisoners, in particular, Mr. Nelson Mandela, that Burundi did not maintain any relations whatsoever with the apartheid régime of South Africa, and that it actively supported national liberation movements in South Africa.

26. The Group noted with appreciation the introductory statement of the representative of the reporting State. The hope was, however, expressed that the general guidelines would be taken into account by the Government when submitting its future reports. Further information was sought regarding measures taken to publicize the Convention in Burundi, and to discontinue diplomatic, trade or other relations with South Africa. It was also asked whether specific reference to the crime of apartheid was made in Burundi legislation. In his reply, the representative of the State party explained that all mass media means were used to alert the public to the crime of apartheid. He further stated that his Government prohibited all exportation to and importation from South Africa and that if an alleged perpetrator was ever to be found in the territory of Burundi, the authorities would either extradite that person or bring him to trial.

Bahamas

27. The initial and second reports of Bahamas, submitted in one document (E/CN.4/1990/32/Add.6) were considered without the participation of a Government representative. The Group took note of the report and observed that it had been prepared in accordance with its general guidelines. It was regretted, however, that in the absence of the representative of the reporting State the members of the Group could not receive answers to their questions. The Group recommended that it was essential for the effective implementation of the Convention that States parties appoint representatives to participate in its meetings when reports submitted by their Governments were considered.

28. The members of the Group wished to be informed whether the new legislation referred to in the report had already been promulgated and noted that that legislation would make the crime of apartheid an offence in the Bahamas, demonstrating effective and concrete implementation by that country of the provisions of the Convention. Clarifications were also sought with regard to the exceptions to denial of entry visas to South African citizens, in particular, how the Government would be able to judge that a South African citizen had demonstrated his/her "active participation in the anti-apartheid movement in South Africa". It was observed that some of these exceptions reduced the effectiveness of the measures taken by the Government of the Bahamas in the implementation of the provisions of the Convention.

IV. CONSIDERATION OF THE ACTIONS OF TRANSNATIONAL CORPORATIONS
WHICH OPERATE IN SOUTH AFRICA

29. In accordance with the request contained in Commission on Human Rights resolution 1989/8, the Group of Three continued to consider whether the actions of transnational corporations operating in South Africa and Namibia came under the definition of the crime of apartheid and whether legal action could be taken under the Convention against them, and, in the light of the views expressed so far by States parties to the Convention (Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Czechoslovakia, Ecuador, German Democratic Republic, Madagascar, Mexico, Panama, Peru, Syrian Arab Republic, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics), specialized agencies (International Labour Organisation) and non-governmental organizations (International Confederation of Free Trade Unions and Women's International Democratic Federation) (see E/CN.4/1986/46, E/CN.4/1987/27 and Add.1-2, E/CN.4/1988/31 and Add.1-3, E/CN.4/1989/32 and E/CN.4/1990/34 and Add.1-2), examined the extent and the nature of the responsibility of transnational corporations for the continued existence of the system of apartheid in South Africa.

30. The Group commended the States parties which had submitted their views and information and called upon those which had not yet submitted their views to do so as soon as possible. The Group was of the opinion that further examination of the matter was needed and that the views and information of all the States parties to the Convention on the extent and the nature of the responsibility of transnational corporations for the continued existence of the system of apartheid in South Africa would be of the greatest usefulness.

31. The Group noted that several United Nations organs had continued to draw the attention of the international community to the close interconnection existing between the activities of transnational corporations operating in South Africa and the persistence of the racist régime in South Africa.

32. The Group noted, with reference to the views and information submitted, that all States parties were in agreement as to the necessity of imposing sanctions against the apartheid régime, in accordance with Chapter VII of the Charter of the United Nations, thus supporting the people of South Africa in their legitimate struggle for freedom and equality, and expressed the hope that more concrete proposals on the subject could be communicated to the Group in the future.

33. The Group reiterated that the role played by transnational corporations in South Africa was threefold: firstly, they exhausted South African and Namibian natural resources, which belonged to the people; secondly, they exploited the labour force of that region with the single aim of making larger profits; and thirdly, by operating in South Africa, they strengthened the apartheid régime, helped to perpetuate the oppression of the African majority and enhanced the repression against those fighting for their independence.

34. Within that context the Group rejected as completely unfounded the assertion that the action of transnational corporations operating in South Africa and close co-operation between certain countries and the racist régime of South Africa in the political, economic, military and other spheres were helping to improve the critical situation of the overwhelming majority of the population of that country and contributed to making the system of apartheid more human.

35. The Group endorsed the conclusion that, by their complicity the transnational corporations operating in South Africa, in conformity with article III (b) of the Convention, must be considered accomplices in the crime of apartheid and must be prosecuted for their responsibility in the continuation of that crime. In that connection, the Group called upon all States parties to the Convention to incorporate in their legislation provisions to that effect.

V. CONCLUSIONS AND RECOMMENDATIONS

36. The Group of Three expressed its appreciation to the representatives of the reporting States for their presence at its meetings and noted with satisfaction that all but one of the reports considered by the Group at the current session were introduced by the representatives of the reporting States.

37. The Group commended States parties which have submitted periodic reports. It noted with concern that 33 States parties as listed in document E/CN.4/1990/32 had not submitted any report and urged in particular those States parties which had not yet submitted their initial reports to do so as soon as possible. The Group further noted with great concern that, as at 31 December 1989, more than 190 reports were overdue under the Convention, and once again strongly urged the States parties concerned to fulfil their reporting obligations, as required under article VII of the Convention. The Group urged the States parties concerned to expedite the submission of their overdue reports as requested by the General Assembly in resolution 44/69.

38. The Group noted with regret that the reports submitted by some States parties were not in line with the general guidelines and therefore reiterates once again its recommendation that all States parties when preparing their reports should strictly follow the general guidelines regarding the form and contents of reports (E/CN.4/1286, annex).

39. The Group noted with concern that only one State acceded to the Convention in 1989. It also expressed concern at the fact that only 88 States had become parties to the Convention. Convinced that the ratification of, or accession to, the Convention on a universal basis and the implementation of its provisions were necessary for its effectiveness, the Group recommended once again to the Commission on Human Rights that it should urge all States which have not yet done so to ratify or to accede to the Convention without delay, in particular those States which have jurisdiction over transnational corporations operating in South Africa.

40. The Group called upon all States parties to the Convention to incorporate in their legislation provisions relating to the "crime of apartheid" including practices of racial segregation and discrimination in accordance with article II of the Convention, and to provide appropriate penalties in respect of persons guilty of the crime of apartheid, as stipulated in article IV (b) of the Convention. In that connection, the Group reiterated the view which it had expressed earlier that consideration should be given to drawing up of model legislation which would serve the States parties as a guide for the implementation of the provisions of the Convention.

41. The Group wished to appeal once again to States parties, through the Commission on Human Rights, to strengthen their co-operation at the international level and to adopt legislative and administrative measures to

implement fully and expeditiously, in accordance with the Charter of the United Nations, the decisions taken by the Security Council and other competent organs of the United Nations and its specialized agencies aimed at the prevention, suppression and punishment of the crime of apartheid, in accordance with article VI of the Convention.

42. The Group took note of Economic and Social Council resolution 1989/27, by which the Council condemned those transnational corporations that continue to collaborate with the racist minority régime in South Africa in defiance of United Nations resolutions and international public opinion and, in many cases, in violation of measures adopted by their home countries.

43. The Group called on all States whose transnational corporations continued to do business with South Africa to take urgent steps to put an end to their operations there. It further urged developing countries to take concerted action to persuade transnational corporations, specially those trading within their territories, to end their operations in South Africa.

44. The Group recommended to the Commission that it request the Secretary-General to give wide publicity to the list of banks, transnational corporations and other organizations operating in South Africa, as reflected in the updated study prepared by the Special Rapporteur, Mr. Ahmed Khalifa (document E/CN.4/Sub.2/1989/9 and Corr.1 and Add.1) and to disseminate the list as widely as possible, including through the United Nations Information Centres around the world, and to report to the Commission at its forty-seventh session on the implementation of this provision.

45. The Group wished to note once again that the crime of apartheid is a form of genocide, similar in nature to Fascist and Nazi crimes, and as such falls under the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity. The Group recommended to the Commission on Human Rights that it reflect this similarity in its respective resolutions, and stress the fact that adherence to the International Convention on the Suppression and Punishment of the Crime of Apartheid is a step towards implementation of the Convention on the Prevention and Punishment of the Crime of Genocide.

46. The Group, recalling in particular paragraph 3 of General Assembly resolution 3068 (XXVIII), by which the Convention was adopted, as well as General Assembly resolution 44/69, wished once again to draw the attention of United Nations organs, specialized agencies and international and national non-governmental organizations to the need to step up their activities in enhancing public awareness by denouncing the crimes committed by the racist régime of South Africa and to intensify their efforts, through appropriate channels, to disseminate information on the Convention and its implementation. In that connection, the Group wished to emphasize the importance of the role of the mass media.

47. The Group wished to emphasize once again the importance of measures to be taken in the field of teaching and education for fuller implementation of the Convention and invited the States parties to include information on these measures in their reports.

48. The Group continued to believe that the implementation of article V of the Convention, relating to the establishment of an international penal tribunal, was conducive to the strengthening of the mechanisms for combating apartheid.

49. The Group reiterated its opinion that the assistance given to national liberation movements in southern Africa should be strengthened and called upon the international community to contribute generously to such movements.

50. The Group wished to recommend to the Commission on Human Rights that it request the Secretary-General to invite once again the States parties to the Convention which have not yet done so to express their views on the extent and the nature of the responsibility of transnational corporations for the continued existence of the system of apartheid in South Africa.

51. The Group wished to recommend to the Commission on Human Rights that it request the Secretary-General to invite the States parties to the Convention, the specialized agencies and non-governmental organizations to provide the Commission with relevant information concerning the types of crime of apartheid, as contained in article II of the Convention, committed by transnational corporations operating in South Africa.

52. The Group reiterated its conviction that the very important means available to the international community to put an end to the system of apartheid consisted in imposing comprehensive and mandatory sanctions against the racist régime in South Africa. At the same time the Group considered that it would be desirable to undertake serious efforts to bring to an end the policies and practices of apartheid of the Government of South Africa through negotiations based on the principle of justice and peace for all as stated in the Declaration on Apartheid and its Destructive Consequences in Southern Africa, adopted unanimously by the Sixteenth Special Session of the General Assembly on 14 December 1989 in resolution S-16/1.

VI. ADOPTION OF THE REPORT

53. At its meeting on 26 January 1990, the Group considered the draft report on the work of its 1990 session. The draft report, as revised during the discussion, was adopted unanimously.
